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UNDER ARTICLE 40 OF THE COVENANT

Fourth periodic report of States parties due in 1995

MONGOLIA

[20 April 1998]

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Introduction

1. The present report* is submitted pursuant to article 40 of the International Covenant on Civil and Political Rights and the decision of the United Nations Human Rights Committee. In preparing the report basic principles in regard to the form of periodic reports and their contents have been taken into consideration.

I. GENERAL INFORMATION

2. Having undergone radical political and socio-economic transformation since 1990, Mongolia has consistently chosen the path of transition to democracy and a market economy. The new Constitution of Mongolia, adopted in January 1992, introduced democratic parliamentary governance in the country and established legal safeguards for civil liberties, equal rights and other rights such as the right to live in an unpolluted environment, the right to benefit from a health-care system, the right to education, etc. A democratic multi-party system has emerged.

3. To respect and guarantee the inalienable human rights and freedoms proclaimed in the Constitution, the following key laws having a bearing on the guaranteed protection of human rights have been enacted during the reporting period: Civil Code (1994), Law on State Service (1995), Package of Laws on Education (1995), Law on Relationship between the State and the Church (1992), Law on Courts (1993), Law on Police (1993), Law on State of Emergency (1995), Law on Prisons and Serving Imprisonment (1993).

4. With the expansion of its external relations and cooperation, Mongolia is taking its appropriate place in the international arena. Recently, Mongolia has joined a number of international treaties and conventions, including:

Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (6 June 1991);

International Convention against the Taking of Hostages (9 June 1992);

Additional Protocols I and II to the Geneva Conventions of 12 August 1949 (17 November 1995);

The question of acceding to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment has been brought to the State Great Hural (Parliament) for consideration by the Cabinet.

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* The translation into English of the present report was commissioned by the Mongolia Field Office in Ulaanbaatar of the Office of the United Nations High Commissioner for Human Rights.

II. IMPLEMENTATION OF THE ARTICLES OF THE COVENANT

Article 1 - Right of self-determination

5. Pursuant to article 1 of the Constitution "Mongolia is an independent, sovereign republic". The basic principles of the State's activities are democracy, justice, freedom, equality, national unity and respect of law.

6. Mongolia is consistently pursuing a State policy aimed at supporting peoples' national liberation movements and the right of self-determination.

Article 2 - Equality before the law and courts

7. As provided for in the Constitution, all persons lawfully residing within Mongolia are equal before the law and courts. No person shall be discriminated against on the basis of ethnic origin, language, race, age, sex, social origin and status, property, occupation and post, religion, opinion or education.

8. The rights and duties of foreign citizens residing in Mongolia are regulated by domestic legislation, e.g. the Law on the Legal Status of Foreign Citizens, as well as by treaties and agreements concluded with other States. Pursuant to paragraph 2 of article 8 of the Law on the Legal Status of Foreign Citizens adopted in 1993, "Foreign citizens in Mongolia shall enjoy the rights and freedoms provided them by the law of the country, equally with Mongolians".

9. Thus far Mongolia has concluded legal assistance agreements with 14 countries, 3 during the reporting period (Ukraine, Kazakhstan, France). In this way, a legal basis for implementing the principle of equality before the law and courts is being created.

Article 3 - Gender equality

10. Ensuring the equal right of men and women to the enjoyment of all human rights and freedoms constitutes one of the priority issues in the State policy of Mongolia. Our country acceded to the Convention on the Political Rights of Women in 1965 and to the Convention on the Elimination of All Forms of Discrimination against Women in 1981.

11. The State policy on ensuring the equal rights of men and women finds its implementation through the laws of Mongolia, such as the Constitution, the Civil Code, the Family Law, the Labour Code, the Laws on Social and Health Insurance, the Laws on Education and Health, and other legal Acts enacted in conformity with them.

12. Article 16 of the Constitution of Mongolia adopted in 1992 reads: "men and women shall have equal rights in political, economic, social, cultural and family relations".

13. The State had been pursuing a specific policy on promoting women to decision-making positions, which has been marked by some progress. Since the beginning of the 1990s, a process of radical reform of the legislative,

executive and judicial branches of power has been under way. As of 1994, women accounted for 11 per cent of the leadership of political parties. Free democratic elections, held in 1992, produced three female members in the present State Great Hural. In comparison with the previous parliament, the percentage of women was eight times less: 24.3 per cent as compared with 3.9 per cent. However, almost 70 per cent of Mongolian lawyers are women, who make up the bulk of the membership of legal organizations.

14. According to general conditions set forth in the Law on Social Insurance, which has been in effect from 1 January 1995, women shall be entitled to retire provided they have paid contributions to the pension insurance fund for a period of not less than 20 years and have reached the age of 55. This is five years less than the requirement established for men. Moreover, mothers who bore four or more children or adopted four or more children under the age of three and brought them up until the age of six and who paid contributions to the pension insurance fund for a period of not less than 20 years acquire the right to retire at the age of 50. This attests to a peculiarity of our country, which has a sparse population; the majority of women bear and raise more than three children, combining child-raising with their work. Those women who have no right to a pension are entitled to receive care allowances beginning at age 55.

15. The right to education of all Mongolian citizens, including women, is fully secured. To meet citizens' needs for education at the current stage of transition to the new humane, civil and democratic society, the State Great Hural has defined and approved "The State Policy on Education", consistent with international trends in the area of education.

16. Women make up 50.3 per cent of the population of Mongolia, and as of 1994 women with higher education accounted for 69.4 per cent, with special secondary education for 80.1 per cent, and with vocational training for 48.8 per cent of the population. Laws on Primary, Secondary and Tertiary Education were passed in 1995 which addressed the matter of educating women.

17. The Criminal Code of Mongolia envisages liabilities for obstructing women from exercising their rights to education, work, and participation in State, social, political and cultural activities equally with men, as well as for using force or threatening to do so, or abusing women by taking advantage of their state of dependence, material or otherwise. Moreover, refusing to hire pregnant women and breastfeeding mothers, decreasing their salary or dismissing them in this connection shall be punished by the imposition of corrective action or a fine.

18. In March 1996 the national forum on "Women and Social Development" was convened in Mongolia which endorsed the "National programme on improving the status of Mongolian women". The programme became a policy document which highlighted key issues regarding the improvement of the status of Mongolian women, their more proactive involvement in the development process and defined goals, activities to be implemented and ways to achieve the objectives. Although consistent cooperation among government agencies at all levels is crucial in implementing this programme, the participation of all public actors in Mongolia is essential.

19. The State has pursued a policy of ensuring the equal rights of men and women and it will, in the future, consistently adhere to this policy.

Articles 4 and 5 - Scope of limitations on human rights during a State of emergency or martial law

20. Articles 25 and 33 of the Constitution make it the President's prerogative to declare a state of emergency or martial law on the whole or a part of the national territory when extraordinary circumstances arise at a time when the State Great Hural is in recess, with a view to eliminating the consequences and to normalize the people's economic and social life. Further, article 19 of the Constitution states that in the case of a state of emergency or martial law, the human rights and freedoms as defined by the Constitution and other laws shall be subject to limitation only by a law. To establish a legal basis for implementing this constitutional provision the Law on a State of Emergency was adopted by the State Great Hural on 14 November 1995.

21. The following concepts have underpinned the above law:

(a) The law shall be applied exclusively during a state of emergency or martial law as specified by the Constitution;

(b) A state of emergency or martial law shall be declared with the sole purpose of eliminating as fast as possible the circumstances that entailed the imposition of the state of emergency or martial law and the consequences thereof, and ensuring the restoration of the normal life of people and society;

(c) The declaration of a state of emergency or martial law shall be a provisional measure;

(d) The declaration of a state of emergency or martial law and the procedures for prolonging, terminating or denouncing it shall be established by special legislation;

(e) Guarantees for ensuring human rights and freedoms during a state of emergency or martial law shall be stipulated by law;

(f) Liability shall be imposed on those who violate the legislation pertaining to a state of emergency or martial law;

(g) Extraordinary measures to be in effect during a state of emergency or martial law will be declared by a special decision and shall be consistent with any extraordinary circumstances that may emerge and with the international treaties to which Mongolia is a party;

(h) Unless otherwise provided for in the national legislation and international treaty, foreign citizens and stateless persons shall observe the legislation on a state of emergency or martial law equally with Mongolian citizens;

(i) In case of the declaration of a state of emergency or martial law, the Secretary-General of the United Nations shall be duly informed in accord with obligations pursuant to international treaties.

22. Article 18 of the Law on the State of Emergency provides that the Law shall not affect the right to life, the freedom of thought, conscience and religion, as well as the right to be free from torture, inhuman and cruel treatment, enshrined in the Constitution.

23. Implementation of extraordinary measures during a state of emergency or martial law, apart from being consistent with the obligations of Mongolia pursuant to international human rights instruments, shall ensure that there is no discrimination against persons on the basis of ethnic origin, language, race, age, sex, social origin and status, property, occupation or post, religion, opinion or education. In this way, in accordance with article 19 of the Constitution human rights and freedoms may be subject to limitation only by law, solely in case of a state of emergency or martial law. In exercising one's rights and freedoms, one shall not infringe on the national security, the rights and freedoms of others or violate public order.

Article 6 - Right to life

24. The right to life comprises a core of human rights proclaimed and guaranteed in the Constitution, the Criminal Code and other laws of Mongolia. Article 16 of the Constitution, which reads "Deprivation of human life shall be strictly prohibited unless capital punishment constructed by the Criminal Code of Mongolia for the most serious crimes, is imposed by a competent court" clearly attests to this.

25. With the passage of the Law on Amendments to the Criminal Code of Mongolia, enacted in 1993, and several subsequent amendments, a number of crimes liable to the death penalty has been decreased from nine to the following five:

Article 62 - Terrorist act committed for political purposes;

Article 63 - Terrorist act against representative of a foreign State for political purposes;

Article 64 - Sabotage;

Article 86 - Premeditated murder committed with aggravating circumstances;

Paragraph 3 of article 112 - Rape with aggravating circumstances.

Thus far, no capital punishment has been applied under articles 62, 63 and 64.

26. According to article 21 of the Criminal Code, persons who have not attained the age of 18 before the commission of a crime, all women, and men who are over 60 shall not be condemned to death.

27. As provided for in paragraph 8 of article 33 of the Constitution and article 15 of the Law on the Presidency, the President of Mongolia is entitled to grant pardon. The State Great Hural of Mongolia, pursuant to paragraph 14 of article 25, shall have an exclusive power to issue acts of amnesty.

28. To guarantee the right to life the State follows a policy of reducing the application of the death penalty.

Article 7 - Prohibition of torture and inhuman and cruel treatment

29. "No one shall be subjected to torture, inhuman, cruel or degrading treatment" states paragraph 13 of article 16 of the Constitution of Mongolia. Violation of this constitutional provision entails the application of criminal sanction.

30. According to article 19 of the Criminal Code, punishment shall not imply a purpose of inhumane, cruel or degrading treatment. Moreover, paragraph 2 of article 193 of the Code provides for the deprivation of the right to occupy a specified post and imprisonment for a term of not more than 10 years for exceeding authority or official powers accompanied by the use of force or weapons or by actions which torment a victim and insult his personal dignity.

31. In 1990 the Law on Elimination of Damages Inflicted on Citizens due to Illegal Actions of Courts, Prosecution, Investigation and Inquiry Agencies was adopted. In compliance with this law, a procedure for compensating damages and material losses inflicted on citizens due to unlawful indictment, arrest, detention or corrective acts was introduced.

Article 8 - Prohibition of slavery and forced labour

32. Slavery, the slave-trade and institutions and practices similar to slavery do not exist in Mongolia. In 1968 Mongolia joined the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956.

33. Article 16 of the Constitution states: "No one shall be unlawfully forced to work".

34. In view of the need in recent years to reinvigorate the struggle against alcoholism, the use of narcotic drugs and other toxic substances and the spread of contagious diseases dangerous for society, the question of legislative regulation of these issues arose. As a result, in 1995 the draft laws on compulsory medical treatment as an administrative measure and compulsory labour as an administrative measure against certain ill persons were elaborated and submitted to the State Great Hural. In the process of drafting the laws, the question of ensuring their full conformity with the Constitution and other relevant legislation, as well as with international human rights standards, and adherence to the principles of respect for human rights and imposing compulsory labour solely when ordered by the court, was duly taken into consideration.

35. The purpose of having a law on compulsory medical treatment or labour as an administrative measure to be imposed on certain ill persons is to create a legal basis and regulatory procedures for treating those people's diseases and removing a threat of danger to the society by means of obligatory medical treatment; if the person concerned is able-bodied, by making him work expenses associated with the treatment may be recovered.

36. Paragraph 4 of article 16 of the Constitution, which stipulates the right to free choice of employment, favourable conditions of work, remuneration, rest and private enterprise, is a new step forward towards ensuring the right of Mongolian citizens to freedom of work.

Article 9 - Right to liberty and security

37. The right to personal liberty and security is proclaimed in paragraph 13 of article 16 of the Constitution of Mongolia. No one shall be searched, arrested, detained, persecuted or restricted in his liberty save in accordance with the procedures and on the grounds determined by law.

38. According to article 45 of the Code of Criminal Procedure, a defence counsel shall be permitted to participate in criminal proceedings from the moment of detention of a person suspected of committing a crime, or his interrogation.

39. In 1992, for the first time in its history the State Security Office began to work in accordance with a special law governing its activities, in which respect for human rights and freedoms and respect for the law (art. 3) were defined as one of its fundamental principles of work; accordingly, restrictions on or interference with human rights and freedoms, abetting others in the commission of crimes and legal offences were prohibited (art. 15). In addition, the law provided for the restoration of rights and compensation of damages, subject to pertinent legislation, inflicted on citizens or legal entities as a result of unlawful actions on the part of State security officials (art. 16). Moreover, depending on the extent of guilt of those who violate this law, the application of both administrative and criminal liability was envisaged (art. 21).

40. Beginning in 1989 a special unit on investigating and rehabilitating victims of repression has been operating within the State Security Office under the State Commission on Coordination and Organization of Rehabilitation. In the period from 1992 to October 1995, cases relating to 18,986 victims persecuted from 1921 to 1955 were examined with subsequent restoration of their good names and formal rehabilitation by a decree of a court.

Article 10 - Right of detainees to be treated with humanity and dignity

41. Within the framework of establishing a new legal basis for activities pertaining to the administration of justice and, in the spirit of the contents and concept of the Constitution of Mongolia, the Law on Prisons and Serving Imprisonment was enacted in 1993. Elaboration of this law was necessitated

by the need to perfect the legal basis for the treatment of prisoners in accordance with the latest amendments to the Criminal Code and ongoing reform of the judicial system.

42. Article 5 of the Law provides that in treatment of prisoners the principles of respect for the law, respect for humanity, human rights and freedoms, placing restrictions on prisoners' rights only subject to law and separation of different categories of prisoners shall be followed. Juvenile offenders shall be segregated from adults, likewise female prisoners from males. As stipulated in article 20 of this law, every prisoner shall enjoy the following rights:

(a) To be provided with food of established nutritional value, clothing, accommodation and medical services;

(b) To meet his/her family and others, to receive long-term visits from family members;

(c) To subscribe to periodicals and make use of a prison library;

(d) To submit complaints and petitions to any organization or official;

(e) To receive counselling and other legal aid;

(f) To engage in creative work in literary, art and scientific fields, at his/her own expense.

43. In accordance with the new law, the number of visits, communications, correspondence and parcels allowed prisoners was increased by two to three times. In particular, the number of short meetings of juvenile prisoners serving their term in a penitentiary with an ordinary regime with their families and others became unlimited, while long visits were permitted eight times a year. Moreover, the right of prisoners serving their term in a penitentiary with an ordinary regime to a temporary release when one of their close relatives (parents and foster parents, children and adopted children, brothers, sisters, grandparents, grandchildren, parents-in-law) passed away or their families' homes suffered substantial damage or loss owing to a natural disaster or another unexpected tragedy, was greatly expanded.

44. A draft law envisaging a modification of paragraph 3 of article 11 of the Law on Prisons and Serving Imprisonment, reading "... a prisoner shall bear expenses associated with his food, clothing, bedding, accommodation, electricity, and heating from revenues earned by his own labour", has been submitted to the State Great Hural.

Article 11 - Prohibition of detention for non-performance of a contractual obligation

45. Legislation of Mongolia does not contain any provision regarding detention on the ground of inability to fulfil a contractual obligation.

Article 12 - Right to freedom of movement within one's own country; right to leave and return to one's home country

46. Paragraph 18 of article 16 of the Constitution of Mongolia proclaims the right to freedom of movement and residence within the country, to travel and reside abroad, and to return home.

47. Relations in connection with travel abroad, emigration and return to their home country of Mongolian citizens are governed by the Law on Personal Travel Abroad and Emigration of Mongolian Citizens, enacted in 1993. The right of Mongolian citizens to travel abroad and emigrate may be restricted only in instances so specified by law, such as:

(a) Until the resolution of a lawsuit if one is suspected or accused of committing a crime;

(b) Until the completion of one's prison term or punishment if one has been convicted;

(c) Within three years from the day of discharge if an official has had access or was directly in charge of information pertaining to State secrecy as defined by law;

(d) Until the resolution of a matter arising from a complaint or petition filed by another person or entity that their rights, freedoms or legal interests would be impaired by another's travel abroad or emigration and provided such a complaint or petition has been found to be justified by a competent body.

48. Mongolian citizens may travel freely to countries with which Mongolia has agreements on non-visa travel. The Police Department is to issue passports to citizens at their request. While abroad Mongolian citizens shall be entitled to be under the auspices of the State and seek from the latter protection of their infringed rights and legal interests.

Article 13 - Expulsion of aliens

49. Anyone lawfully residing within Mongolia shall be equal before the law and courts. Foreign nationals shall exercise the rights and freedoms accorded to them pursuant to the legislation of Mongolia, equally with Mongolian citizens.

50. In conformity with article 24 of the Law on the Legal Status of Foreign Citizens, passed in 1993, the number of foreigners permitted to reside in Mongolia and quotas for immigrants from particular countries shall be established by the State Great Hural on an annual basis according to a proposal presented by the Cabinet. As of 1 November 1995, the total number of immigrants residing in Mongolia was 3,515, including 3,394 immigrants and 121 stateless persons, accounting for 0.16 per cent of the population.

51. According to grounds specified by the present law, aliens visiting Mongolia on personal and business matters for up to 30 days shall be called

visitors; foreigners residing in the country for a period up to 183 days shall be referred to as temporary residents; those remaining for a period up to five years shall have the status of long-term residents.

52. Article 30 of the law sets forth grounds for compulsory expulsion of aliens from the territory of Mongolia as follows:

(a) Entry into Mongolia with invalid and false documents or failing to leave the country after the expiry of a leave to stay;

(b) Failure to depart from the country after the revocation or withdrawal of a leave to stay.

53. A decision on the expulsion of a foreign national shall be rendered by the Council for Foreign Citizens' Matters, headed by the Minister of Justice, and executed by the police authorities. As of 1995, 25 aliens had been subjected to expulsion and the leaves to stay of 1,507 foreign nationals and stateless persons had been extended.

Article 14 - Equality before the courts

54. Article 14 of the Constitution of Mongolia enshrined the principle of equality before the law and the courts of all persons lawfully residing within Mongolia. In addition, article 19 of the Law on Courts established that everyone shall be equal before the law and the courts, regardless of ethnic origin, language, race, age, sex, social origin and status, property, occupation or post, religion, opinion or education and other status, and for business entities and organizations, the form of property and scope of powers.

Article 15 - Prohibition of retroactive criminal laws

55. Provisions of the Criminal Code of Mongolia may be cited as an illustration of the principle of humanity of our country's policy. Thus, pursuant to article 4 of the Code, a law eliminating or mitigating punishment for a crime shall have a retroactive force, in other words, such a law shall be applicable to crimes committed before its promulgation. On the other hand, a law establishing or strengthening punishment may not be applied retroactively.

Article 16 - Recognition of legal personality

56. According to articles 14 and 16 of the Constitution of Mongolia, everyone is entitled to have the status of a legal person and to exercise the rights to fair acquisition, management, possession and inheritance of movable and immovable property, to choose freely a place of temporary or permanent residence and to enjoy other material and non-material rights.

57. Issues pertaining to the legal competence and capacity of citizens were determined in the Civil Code, adopted in 1994. Thus, in accordance with article 9 of the Code, citizens acquire full legal capacity, i.e. the ability to exercise rights and perform obligations through their actions, at the age of 18. Transactions on behalf of minors shall be made by their legal representatives - parents or guardians.

58. As provided for in article 11 of the Code, persons under legal age or those aged 14-16 may enter into transactions provided the consent of their legal representatives is obtained. However, they shall have the right to exercise the following rights themselves without authorization:

(a) To manage their work remuneration and student scholarships; to put this money in an account of a credit organization;

(b) To enter into minor transactions without harm for themselves.

59. Persons under legal age shall be liable for injury and damage inflicted on others. In case their own sources - work remuneration, other income - are insufficient, their parents or guardians shall bear supplementary responsibility.

Article 17 - Security of privacy and the home

60. The Constitution of Mongolia declares that "The privacy of citizens, their families' correspondence and home shall be protected by law". Further, the Criminal Code and the Code of Criminal Procedure incorporate detailed provisions guaranteeing the security of privacy.

61. In the past a special law regulating relations connected with personal secrecy was non-existent. The adoption of the Law on Personal Secrecy by the State Great Hural in 1995 therefore became a novelty in the legal practice of Mongolia, attesting to the legalization of the protection of human rights, honour and reputation. With this law a significant step forward has been made in the direction of guaranteeing human rights and freedoms and realization of the concept that in settling civil suits and disputes the courts shall not apply legislation which contradicts the Constitution, the general foundations of the Civil Code of Mongolia, and any decisions which set the norms pertaining to State administration.

62. Aiming at protecting human rights, honour and dignity, this law includes within personal secrecy any information, documentation and material object defined by the pertinent laws of Mongolia as secret. Thus, for example, included in the Criminal and Civil Codes is secrecy of correspondence, which implies the legal liability (e.g. criminal, administrative, material, etc.) of those who unlawfully violate such secrecy.

63. The significance of determining the types of personal secrecy and the grounds and procedure for making it public in the law is twofold. On the one hand, it establishes that information pertaining to human health, property, correspondence and family is secret; on the other hand, it creates a legal basis for revealing such information in cases when this is unavoidable for reasons of national security, national defence, public health and legal interests. This law also establishes the right of citizens to sue anyone who divulges their personal secrets.

64. The adoption of the Law on Personal Secrecy has become an event of crucial importance for safeguarding the human rights and freedoms proclaimed by the Constitution.

Article 18 - Freedom of religion and belief

65. It is stated in the Constitution that the State shall respect religion and religion shall honour the State. The Law on the Relationship between the State and the Church, enacted in 1993, secured the freedom of religion and belief which was declared in the Constitution and provided a regulatory framework for relationships between the State and the Church.

66. It shall be up to a given person to adopt a religion of his choice or not. Under article 3 of the Law, activities aimed at discrimination, humiliation or disunity of citizens on the grounds of their religious differences and their choice of belief are prohibited. Moreover, the individual beliefs of citizens shall not be indicated in identity documents unless their bearer so desires.

67. As a tribute to reverence for the people's unity, historical traditions and culture on the part of the State, the dominant position of the Buddhist religion in Mongolia shall be respected. This, however, shall not impede citizens practising other religions. In recent years, some 136 Buddhist, Christian and Islamic places of worship have been operating in the country.

68. Religious education is to be obtained in religious schools and from private tutors at home. It shall be prohibited to conduct religious training or a religious assembly in State-run educational establishments and organizations.

69. Some provisions of the Law on the Relationship between the State and the Church were found to conflict with the Constitution by the Constitutional Court of Mongolia at its meeting, held on 12 January 1994. These included the following provisions which were rescinded, owing to their conflict with the freedom of religion and belief, by the pertinent law, passed on 14 January 1994:

(a) Paragraph 6 of article 7, reading "Preaching, education, and dissemination of any religion, except for Buddhism, Islam, and Shamanism, shall be prohibited in Mongolia beyond the monasteries and churches of the respective religions";

(b) Paragraph 2 of article 9, reading "Official opinions of head organizations of the respective religions shall be required for establishing a Buddhist monastery and an Islamic mosque";

(c) Paragraph 2 of article 12, reading "Foreign nationals and stateless persons shall be prohibited to be engaged in religious propaganda unless they came to Mongolia in connection with a religious organization with the purpose of worshipping and education".

Article 19 - Freedom of thought, opinion and expression

70. Paragraph 16 of article 16 of the Constitution of Mongolia accords every citizen the freedoms of thought, opinion, expression, speech, publication and peaceful assembly.

71. Under article 3 of the Law of Mongolia on Political Parties it is prohibited to persecute, threaten, slander or insult a party and its members in connection with their opinion. At the same time, in accordance with article 6 of the Labour Code, placing direct or indirect restrictions or according preferential treatment in labour relations based on discrimination on political opinion is forbidden.

72. Political pluralism in Mongolia has been increasingly gaining ground. The latest data show that out of a total number of 252, 64 newspapers and periodicals are published in the provinces.

73. Article 143 of the Criminal Code envisages deprivation of the right to occupy a specified position for a period not exceeding three years or a fine for persecution of citizens who express criticism or submit suggestions, petitions or complaints in accordance with due procedure, which resulted in a deliberate impairment of the citizens' rights and interests.

74. The Law of Mongolia on State Secrecy defines activities for protecting State secrecy and the scope and contents of responsibility, and bans the disclosure and use for personal ends of State secrets by those who are in charge of them or officials and citizens who became acquainted with them in their work. In this context, the prohibition on seeking to discover and disclosing State secrets (art. 12, para. 5) does not contravene the right of citizens to seek information; on the contrary, it is fully consistent with the constitutional provision vesting Mongolian citizens with the right to seek and receive information on any matters except for those pertaining to State secrecy.

Article 20 - Prohibition of propaganda for war and advocacy of hatred

75. The Constitution of Mongolia forbids propaganda for war and asserts that Mongolia shall follow universal legal standards and principles and pursue a peaceful foreign policy.

76. As a party to the International Convention on the Elimination of All Forms of Racial Discrimination (since 1969) Mongolia is obliged to create a legal environment at the national level propitious for the effective fulfilment of its obligations as contained therein. It is noteworthy that in Mongolia there are no laws and regulations which have the effect of creating racial discrimination.

77. Many provisions aimed at preventing discrimination are incorporated in laws and regulations. The following are the laws and pertinent provisions banning racial discrimination:

Constitution (13 January 1992), article 14;

Electoral Law (4 April 1992), paragraph 2 of article 1;

Law on Courts (2 February 1993), article 19;

Law on Presidential Election (15 February 1993), paragraph 3 of article 3;

Code of Civil Procedure (9 May 1994), article 5;

Law on the Procedure for Organizing Demonstrations and Assemblies (7 July 1994), paragraph 1 (1) of article 8;

Law on State Service (30 December 1994), paragraph 1 of article 16;

Law on Education (13 June 1995) paragraph 2 of article 4.

78. Paragraph 2 of article 14 of the Constitution provides that no person shall be discriminated against on the basis of ethnic origin, language, race, age, sex, social origin and status, property, occupation and post, religion, opinion or education.

Article 21 - Right to peaceful assembly

79. As provided for in the Constitution, citizens of Mongolia shall enjoy the freedoms of expression, publication and peaceful assembly. The procedure for organizing demonstrations and assemblies was established by the law, promulgated in 1994. The law also contains provisions for ensuring public order and security during such events.

80. Political and mass organizations shall also have the right to conduct demonstrations and assemblies and, unless otherwise provided for in an international treaty, foreign nationals and stateless persons shall be entitled to participate in demonstrations and assemblies being held in conformity with the pertinent legislation.

81. It shall be prohibited to persecute, restrict the liberties of and discriminate in whatever form against anyone participating in a lawfully conducted demonstration or assembly.

82. Demonstrations and assemblies may not be allowed for the purpose of disseminating propaganda for war; inciting divisions between ethnic groups, hatred and discrimination on the basis of ethnic origin, language, race, age, sex, social origin and status or religion, calling for killings, massacres, terrorist acts, coups d'etat; creating public chaos and impairing the national security and public order.

Article 22 - Freedom of association

83. Pursuant to paragraph 10 of article 16 of the Constitution, citizens of Mongolia shall have the right to freedom of association in political parties and, other voluntary organizations on the basis of social and personal interests and opinions. Political parties and other mass organizations shall uphold public order and national security, and abide by the law. Proceeding from this provision the right of citizens to form political parties was secured by the Law on Political Parties, adopted in 1990.

84. In order to enjoy the status of a legal personality any party must submit to the Civil Chamber of the Supreme Court a request for registration and official announcement, along with the requisite documents specified in article 5 of the Law. To date, 12 political parties have registered and operate in Mongolia. All political parties are accorded equal protection under the law and are expected to enjoy parity in their relations with each other. Article 3 of the law contains prohibitions on persecuting, threatening, slandering and insulting a party or its members in connection with their opinion.

85. In carrying out their activities political parties are to adhere to the following principles:

1. To honour and observe the Constitution and other laws of Mongolia.

2. To ensure transparency and conformity with national and public interests in conducting their activities.

3. To esteem the reputation of other political parties.

4. To follow strictly their programme of action.

5. To revere humanitarian principles.

6. To respect friendship and cooperation established with other countries.

86. To realize the right work and to protect legal interests derived in this connection, citizens shall have the right to freedom of association in trade unions, without any authorization to this effect and based solely on their voluntary intent. In this respect, the Law on Trade Unions which has enacted in 1991 is still effective. Pursuant to this law, it is prohibited to place limitation on rights and liberties or to discriminate on the grounds of one's affiliation or non-affiliation with trade unions. Article 4 of the Law states that trade unions shall be united according to professional and industrial criteria and shall conduct their activities freely and independently within the law.

Article 23 - Protection of the family

87. Equality of men and women in marriage is exercised in Mongolia as safeguarded by the Constitution and other laws adopted in accordance with it. At present, the Family Law of 1973 is being revised to make it correspond with new social relations.

88. As of 1994, in Mongolia there were 511,900 families with an average of 4.4 members per family.

89. The Government of Mongolia has been consistently pursuing a concrete policy aimed at ensuring family well-being, expanding support services for raising and bringing up children and alleviating women's housework.

90. Paragraph 3 of article 3 of the Law on Nationality adopted in 1995 contains the following provision: "Acquiring or discontinuing Mongolian nationality by one of the partners in a marriage shall not affect the nationality of the spouse. Residence of a Mongolian citizen abroad shall not serve as a ground for depriving him from his nationality".

91. Since 1952, the State has been giving allowances to families with multiple children and in the last three years Tug 100 million on average per annum were spent for this purpose. Mothers who bore and raised five or more children are honoured, decorated with the order of "Mother Heroine", accompanied with monetary encouragement, and benefit from some privileges in social service.

92. Mongolia acceded to the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages in 1991. Its provisos are being implemented through the Constitution and the Family Law.

Article 24 - Protection of the rights of the child

93. The population of Mongolia is 2.2 million, of whom 47 per cent are children under 18. "Guidelines on the State Policy on Children and Youth" were endorsed by the President's decree No. 119, dated 27 June 1991. The document envisions that the State policy shall be focused upon creating the right set of social, economic, political and legal circumstance propitious for raising healthy adolescents and youth, for educating them and rearing in a spirit of humanness, for enabling them to keep pace with global civilization at the threshold of the twenty-first century.

94. Mongolia ratified the Convention on the Rights of the Child in 1990. Since the matter of children's interests and their future has rightfully been given significant weight in State policy. In order to fulfil the obligations of the Convention at the national level, a number of provisions relating to children have been duly incorporated in new laws and regulations. The rights and duties of the child stated in the Convention appear to have been addressed in full in chapter 2 of the Constitution of Mongolia, entitled "Human rights and freedoms". Thus, paragraph 11 of article 16 of the Constitution reads "The State shall protect the interests of the family, motherhood and the child"; paragraph 2 of article 17 of the basic law states "It is a sacred duty for every citizen to ... bring up and educate his/her children ...."

95. The National Programme of Activities on Developing a Child, to be carried out until the year 2000, which had been elaborated jointly by the relevant ministries and departments and approved by a resolution of the Cabinet on 27 May 1993, is now under implementation. Within the framework of this programme 12 projects focusing on the health, education and social issues relating to children are currently being executed in collaboration with UNICEF. Of these, four projects are on health, three on nutrition, two on education, two on children in difficult conditions, one on promotion of the national programme and the Convention on the Rights of the Child.

96. The right of the child to registration, name and nationality from the moment of birth is regulated in detail by the Family Law of Mongolia (1973), Instruction on Registration of Family Status (1984) and the Law of Mongolia on

Nationality (1995). Under article 7 of the Law on Nationality, a child shall have Mongolian nationality regardless of the place of his birth provided his parents were Mongolian citizens when he was born. If only one of the parents is a Mongolian citizen and another is a foreign national, their child in Mongolia shall acquire Mongolian nationality. In case a child was born in a foreign location, the child's citizenship shall be decided by a written agreement between the parents. If one of the parents is a Mongolian citizen and another is a stateless person, their child shall become a Mongolian national irrespective of the place of his birth. If both parents are stateless persons residing in Mongolia, their child shall acquire Mongolian nationality. Likewise, a child under 16 having Mongolian citizenship who has been adopted by a stateless person shall retain his nationality.

97. Pursuant to article 85 of the Labour Code, the minimum age for admitting children to work is 16. However, a child may start working at the age of 15 with the consent of his parents or their representatives, provided such work will not impair his health, normal physical development and morale. Moreover, the same article provides that children who have attained the age of 14 may work with the permission of their parents or their representatives and under their supervision with a view to getting practice and professional orientation. In accordance with article 86 of the Code, workers under 18 may not be allowed to work at night, overtime, or during national holidays and weekends. Under article 26 of the Code, the total number of working hours of a worker aged 14-15 shall not exceed 30 hours, and for those aged 16-18 not more than 36 hours.

98. Under Cabinet resolution No. 34, dated 28 September 1992, a fund to assist poor families, households and citizens was set up. From that fund children from low-income families, orphans and handicapped children are provided with gratis clothing and schooling items; those who are graduates receive work and other pertinent equipment.

Article 25 - Participation in public affairs

99. The Constitution of Mongolia stipulates the right of citizens to take part in the government of the country directly or through representative bodies, to elect and be elected to State bodies. The right to vote shall be enjoyed from the age of 18 years and the age for being elected shall be defined by law according to requirements in respect of the bodies and posts concerned.

100. Fundamental constitutional principles regarding elections were detailed in the Electoral Law, adopted by the State Great Hural in April 1992. Seventy-six members of the State Great Hural shall be elected by the citizens of Mongolia entitled to vote, on the basis of universal, free, direct suffrage by secret ballot, for a term of four years.

101. In line with the new Constitution of 1992 the political system of Mongolia has been reformed. In this connection, based on the need to determine the structure and competence of State bodies and to set up a legal basis for their activities and legal and economic guarantees for civil servants, the Law on State Service was passed by the State Great Hural in December 1994 and entered into force on 1 June 1995. Adoption of this law is

of great significance in terms of creating the right legal environment for having experienced, skilful professionals in the State service, for protecting the rights of civil servants and ensuring adequate guarantees and benefits for them.

102. The principles of the State activities enshrined in paragraph 2 of article 1 of the Constitution, including ensuring of democracy, justice, freedom, equality, national unity and respect for the law, shall also be the principles of the State service. In addition, in the State service, unless otherwise provided for in the law, the following principles shall be followed: transparency, subordination, service for people, equal access of citizens to the State service, redress by the State of damage caused by civil servants in the course of performing their mandate as defined by law.

Article 26 - Prohibition of discrimination

103. The Constitution of Mongolia prohibits discrimination on the basis of ethnic origin, language, race, age, sex, social origin and status, property, occupation and post, religion, opinion and education. This provision fully complies with the objective of building a humane, democratic society in Mongolia.

104. Many laws and regulations contain specific provisos connected with this provision. Thus, article 5 of the Code of Civil Procedure states that "Civil proceedings shall be conducted proceeding from the principles of equality and non-discrimination on the basis of ethnic origin, language, race, age, sex, social origin and status, property, occupation and post, religion, opinion, education and other social condition, the form of property and scope of powers of legal persons".

105. The Law of Mongolia on the Legal Status of Foreign Citizens forbids discrimination against aliens in any form.

Article 27 - Rights of minorities

106. The Constitution of Mongolia declares that no person shall be subjected to discrimination on the basis of ethnic origin, language, race, age, sex, social origin, status and other criteria.

107. Research organizations and institutions pay great attention to carrying out research on the culture and traditions of ethnic groups residing within Mongolia. Thus, a variety of mass organizations, active in ethnic, religious and cultural areas, operate in Bayan-Ulguiy province. Although article 8 of the Constitution establishes the Mongolian language as the official language of the State, this does not affect the right of national minorities to use their native languages in education and communication and in the pursuit of cultural, artistic and scientific activities.

108. In the above-mentioned Bayan-Ulguiy province there exist schools conducting teaching in Kazak, a national theatre, a folk ensemble, and there are various newspapers and journals published in the Kazak language.